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PATRICK S. YODER
FLETCHER YODER & VAN SOMEREN
P O BOX 692289
HOUSTON, TX 772692289

EXAMINER

MORGAN, ROBERT W

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 10/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/470,344	Applicant(s) KERPELMAN ET AL.	
	Examiner Robert W. Morgan	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/7/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. In the amendment filed 8/7/06 the following has occurred: Claims 1, 5, 17, 18, 32, 34, 46 and 55 have been amended and claim 4 has been canceled. Now claims 1-3 and 5-60 are presented for examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 and 5-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent No. 6,006,191 to DiRienzo.

As per claim 1, DiRienzo teaches a medical facility data communications system, the system comprising:

--the claimed internal data communications network is met by the use of digital communication links such as Ethernet (see: column 19, lines 35-42);

--the claimed plurality of clients coupled to the internal network and uniquely addressed on the internal network, the clients include a plurality of medical diagnostic imaging modalities configured to produce image data is met by the different clients such as the CHC (200, Fig. 3) connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49) this suggests that while using

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different networks such as the Intranet all addresses are unique. Furthermore, DiRienzo teaches that different clients such as the CHC (200, Fig. 3) are connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). In addition, DiRienzo teaches that many diagnostic instrumentalities produce "diagnostic medical images" (see: column 2, lines 10-16). This suggests that the different clients at the diagnostic physician's office and the gatekeeper's office using the Intranet include a plurality of computers or medical diagnostic imaging modalities (see: column 5, lines 13-25) configured to produce medical diagnostic images.

DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (see: column 26, lines 45-56).

DiRienzo fails to explicitly teach the claimed data communications control system coupled to the internal network.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) within the data transmission as taught by DiRienzo with the

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motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claims 2-3, DiRienzo teaches the use of digital communication links such as Ethernet (see: column 19, lines 35-42).

As per claim 5, DiRienzo teaches the claimed plurality of medical diagnostic imaging modalities are selected from a group including medical resonance imaging system, computed tomography systems, ultrasound systems, and x-ray systems (see: column 5, lines 13-25).

As per claims 6-8, DiRienzo teaches the claimed clients include a hospital information system, radiology department and picture archiving and communication system (see: column 19, lines 25-28).

As per claims 9-10, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

DiRienzo fails to explicitly teach the claimed data communications control system configured to access data.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data

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communication control system) configured to access data within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claims 11-12, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

DiRienzo fails to explicitly teach the claimed use of the at least one mobile client connected to the internal network to access data.

It is well known in computer medical industry that using a portable computer allows a user access to the Internet. Therefore, it would have been obvious to one having ordinary skill in the art at the time invention was made to either use a portable computer or a hard wired computer within the data transmission as taught by DiRienzo with the motivation of allowing the user unlimited opportunities to access and retrieve information on the Internet, thereby facilitating the approach of gathering information through over a network in a less time consuming and efficient manner.

As per claim 13, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

DiRienzo fails to explicitly teach the claimed data communications control system.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) data within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 14, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

DiRienzo fails to explicitly teach the claimed exchanging client data and addressed data between the data communications control system and the remote service provider

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) to exchange data within the data transmission as taught by

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DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 15, DiRienzo teaches the claimed external network interface includes an interface for at least two different data communications media (see: column 19, lines 25-49).

As per claim 16, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

As per claim 17, DiRienzo teaches a data communications system for a medical diagnostic facility, the system comprising:

--the claimed plurality of clients linked to an internal network, the clients including a plurality of medical diagnostic imaging modalities is met by the different clients such as the CHC (200, Fig. 3) connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). Furthermore, DiRienzo teaches that different clients such as the CHC (200, Fig. 3) are connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). In addition, DiRienzo teaches that many diagnostic instrumentalities produce "diagnostic medical images" (see: column 2, lines 10-16). This suggests that the different clients at the diagnostic physician's office and the gatekeeper's office using the Intranet include a plurality of computers or medical diagnostic imaging modalities (see: column 5, lines 13-25) configured to produce medical diagnostic images.

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DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (see: column 26, lines 45-56). In addition, DiRienzo teaches the use of digital communication links such as Ethernet (see: column 19, lines 35-42).

DiRienzo fails to explicitly teach the claimed data communications control system linked to the internal network.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 18, DiRienzo teaches the claimed client data includes operational data for evaluating performance of the plurality of medical diagnostic imaging modalities. This limitation is met by the RAMIX system (100, Fig. 3), which receives, stores and downloads medical images requiring diagnostic readings and receives, stores and transmits reports regarding the diagnostic readings performed on the medical images (see: column 18, lines 37-42).

Furthermore, DiRienzo teaches that different clients such as the CHC (200, Fig. 3) are connected

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to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). In addition, DiRienzo teaches that many diagnostic instrumentalities produce "diagnostic medical images" (see: column 2, lines 10-16). This suggests that the different clients at the diagnostic physician's office and the gatekeeper's office using the Intranet include a plurality of computers or medical diagnostic imaging modalities (see: column 5, lines 13-25) configured to produce medical diagnostic images.

As per claims 19-21, DiRienzo teaches a system wherein data transmission among one or more system clients (e.g. the Imaging center, the CHC, the physician at the diagnostic reading center, and gatekeeper) employs several different types of networks to interconnect the different system clients (see: column 19, lines 25-49).

DiRienzo fails to explicitly teach the claimed external network is a wide area network that includes the Internet.

However, at the time of the Applicants' invention, it would have been obvious to one of ordinary skill in the art to modify the system of DiRienzo to transfer data via a WAN link that includes the Internet. As suggested by DiRienzo, one would have been motivated to modify the system to accommodate the preferences of various system users and to ensure that the system operates efficiently with the available network resources and cost constraints of different users (see: column 19, lines 40-42).

As per claims 22-24, DiRienzo teaches the claimed clients include a hospital information system, radiology department and picture archiving and communication system (see: column 19, lines 25-28).

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As per claims 25-26, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

DiRienzo fails to explicitly teach the claimed data communication control system configured to access data.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to access data within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 27-28, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

DiRienzo fails to explicitly teach the claimed use of the at least one mobile client connected to the internal network to access data.

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It is well known in computer medical industry that using a portable computer allows access the Internet. Therefore, it would have been obvious to one having ordinary skill in the art at the time invention was made to either use a portable computer or a hard wired computer within the data transmission as taught by DiRienzo with the motivation of assisting the users with accessing and retrieving information on the Internet, thereby facilitating the approach of gathering information through over a network in a less time consuming and efficient manner.

As per claim 29, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (see: column 26, lines 45-56). In addition, DiRienzo teaches the use of digital communication links such as Ethernet (see: column 19, lines 35-42).

DiRienzo fails to explicitly teach the claimed data communications control system.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to access data within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

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As per claims 30-31, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (see: column 26, lines 45-56). In addition, DiRienzo teaches the use of digital communication links such as Ethernet (see: column 19, lines 35-42).

DiRienzo fails to explicitly teach the claimed data communications control system.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to store and execute communications interface within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 32, DiRienzo teaches a communications system for a medical diagnostic facility, the system comprising:

--the claimed internal network is met by the use of digital communication links such as Ethernet (see: column 19, lines 35-42);

--the claimed plurality of clients configured for connection to the network for transmission of client data and plurality of medical diagnostic imaging modalities. This feature is

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met by the different clients such as the CHC (200, Fig. 3) connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). Furthermore, DiRienzo teaches that different clients such as the CHC (200, Fig. 3) are connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). In addition, DiRienzo teaches that many diagnostic instrumentalities produce "diagnostic medical images" (see: column 2, lines 10-16). This suggests that the different clients at the diagnostic physician's office and the gatekeeper's office using the Intranet include a plurality of computers or medical diagnostic imaging modalities (see: column 5, lines 13-25) configured to produce medical diagnostic images.

DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (see: column 26, lines 45-56). In addition, DiRienzo teaches the use of digital communication links such as Ethernet (see: column 19, lines 35-42).

DiRienzo fails to explicitly teach the clients including a physically mobile client as well as the data communications control system being configured to automatically access client data including data indicative of a location of the mobile client and data communication control system coupled to the internal network.

It is well known in computer medical industry that using a portable computer allows access the Internet. Therefore, it would have been obvious to one having ordinary skill in the art at the time invention was made to either use a portable computer or a hard wired computer

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within the data transmission as taught by DiRienzo with the motivation of assisting the users with accessing and retrieving information on the Internet, thereby facilitating the approach of gathering information through over a network in a less time consuming and efficient manner. In addition, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to automatically access client data within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 33, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (see: column 26, lines 45-56).

DiRienzo fails to teach the claimed control system is configured to detect the location of the mobile client upon connection of the mobile client to the network.

It is well known in computer medical industry that using a portable computer allows access the Internet. Therefore, it would have been obvious to one having ordinary skill in the art at the time invention was made to either use a portable computer or a hard wired computer including the location of the computer within the data transmission as taught by DiRienzo with

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the motivation of assisting the users in uniquely identifying specific addressing information, thereby providing a simpler and quicker way to access desired data over a network.

As per claim 34, DiRienzo teaches the claimed wherein the client data includes operational data for evaluating performance of the plurality of medical diagnostic imaging modalities. This limitation is met by the RAMIX system (100, Fig. 3), which receives, stores and downloads medical images requiring diagnostic readings and receives, stores and transmits reports regarding the diagnostic readings performed on the medical images (see: column 18, lines 37-42). Furthermore, DiRienzo teaches that different clients such as the CHC (200, Fig. 3) are connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). In addition, DiRienzo teaches that many diagnostic instrumentalities produce "diagnostic medical images" (see: column 2, lines 10-16). This suggests that the different clients at the diagnostic physician's office and the gatekeeper's office using the Intranet include a plurality of computers or medical diagnostic imaging modalities (see: column 5, lines 13-25) configured to produce medical diagnostic images.

As per claims 35-37, DiRienzo teaches a system wherein data transmission among one or more system clients (e.g. the Imaging center, the CHC, the physician at the diagnostic reading center, and gatekeeper) employs several different types of networks to interconnect the different system clients (see: column 19, lines 25-49).

DiRienzo fails to explicitly teach the claimed external network is a wide area network that includes the Internet.

However, at the time of the Applicants' invention, it would have been obvious to one of ordinary skill in the art to modify the system of DiRienzo to transfer data via a WAN link that includes the Internet. As suggested by DiRienzo, one would have been motivated to modify the system to accommodate the preferences of various system users and to ensure that the system operates efficiently with the available network resources and cost constraints of different users (see: column 19, lines 40-42).

As per claims 38-40, DiRienzo teaches the claimed clients include a hospital information system, radiology department and picture archiving and communication system (see: column 19, lines 25-28).

As per claims 41-42, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

DiRienzo fails to explicitly teach the claimed data communication control system configured to access data.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to access data within the data transmission as taught

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by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 43, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

DiRienzo fails to explicitly teach the claimed data communications control system.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) data within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claims 44-45, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56).

DiRienzo fails to explicitly teach the claimed data communications control system configured to store and execute communications interface.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to store and execute communications interface within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 46, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56). In addition, DiRienzo teaches the RAMIX system (100, Fig. 3), which receives, stores and downloads medical images requiring diagnostic readings and receives, stores and transmits reports regarding the diagnostic readings performed on the medical images (see: column 18, lines 37-42). Furthermore, DiRienzo teaches that different clients such as the CHC (200, Fig. 3) are connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). In addition, DiRienzo teaches that many diagnostic instrumentalities produce "diagnostic medical images" (see: column 2, lines 10-16). This suggests that the different clients at the diagnostic physician's office and the gatekeeper's office using the Intranet include a plurality of computers or medical diagnostic

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imaging modalities (see: column 5, lines 13-25) configured to produce medical diagnostic images.

DiRienzo fails to explicitly teach the claimed data communications control system.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to store and execute communications interface within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 47, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56). In addition, DiRienzo teaches the use of digital communication links such as Ethernet (see: column 19, lines 35-42).

DiRienzo fails to explicitly teach the claimed data communications control system.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus

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obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to store and execute communications interface within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claim 48, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (see: column 26, lines 45-56). In addition, DiRienzo teaches the use of digital communication links such as Ethernet (see: column 19, lines 35-42).

DiRienzo fails to explicitly teach the claimed data communications control system.

However, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to store and execute communications interface within the data transmission as taught by DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

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As per claim 49, DiRienzo teaches the claimed control system includes an operator interface, and wherein the request is generated via the operator interface (see: column 26, lines 45-56).

As per claim 50, DiRienzo teaches the claimed client data is transmitted to the control system in a transmission created by operator intervention at the client (see: column 26, lines 45-56).

As per claims 51-53, DiRienzo teaches the claimed transmission is created via an interface routine executed interactively by the control system and client, interface routine includes a web browser application and the step of storing client data for access by the control system (see: column 26, lines 45-56).

As per claim 54, DiRienzo teaches the claimed the step of logging communications between the clients and the control system. The features is met by the RAMIX system (100, Fig. 3), which receives, stores and downloads medical images requiring diagnostic readings and receives, stores and transmits reports regarding the diagnostic readings performed on the medical images (see: column 18, lines 37-42).

As per claim 55, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (see: column 26, lines 45-56).

Furthermore, DiRienzo teaches that different clients such as the CHC (200, Fig. 3) are connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). In addition, DiRienzo teaches that

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many diagnostic instrumentalities produce “diagnostic medical images” (see: column 2, lines 10-16). This suggests that the different clients at the diagnostic physician’s office and the gatekeeper’s office using the Intranet include a plurality of computers or medical diagnostic imaging modalities (see: column 5, lines 13-25) configured to produce medical diagnostic images.

DiRienzo fails to explicitly teach the claimed the clients including at least one physically mobile client and transmitting client data from the clients to a data communications control system, the client data including at least data indicative of a location of the at least one mobile client.

It is well known in computer medical industry that using a portable computer allows access the Internet. Therefore, it would have been obvious to one having ordinary skill in the art at the time invention was made to either use a portable computer or a hard wired computer within the data transmission as taught by DiRienzo with the motivation of assisting the users with accessing and retrieving information on the Internet, thereby facilitating the approach of gathering information through over a network in a less time consuming and efficient manner. In addition, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network. Furthermore, at the time of the Applicant’s invention, it would have been obvious to one of ordinary skill in the art to include network/communication interface (e.g. the recited data communication control system) configured to automatically access client data within the data transmission as taught by

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DiRienzo with the motivation of assisting in the transmission process by facilitating the reliability of physician accessing and reviewing patient data.

As per claims 56-57, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (see: column 26, lines 45-56).

DiRienzo fails to teach at least one mobile client is transmitted upon connection of the at least one mobile client to the network and the step of accessing client data representative of performance of the clients.

It is well known in computer medical industry that using a portable computer allows access the Internet. Therefore, it would have been obvious to one having ordinary skill in the art at the time invention was made to either use a portable computer or a hard wired computer including the location of the computer within the data transmission as taught by DiRienzo with the motivation of assisting the users in uniquely identifying specific addressing information, thereby providing a simpler and quicker way to access desired data over a network.

As per claim 58, this feature has addressed in the rejection of claim 29, and is incorporated herein.

As per claim 59, DiRienzo teaches the claimed step of transmitting at least a portion of the client data to a remote service provider via an external network. This feature is met by transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review

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data (column 26, lines 45-56). In addition, DiRienzo teaches the use of digital communication links such as Ethernet (see: column 19, lines 35-42).

As per claim 60, DiRienzo teaches a method of transmitting data requests and requested data between a medical diagnostic facility (e.g. diagnostic reading site), a remote data provider (e.g. CHC) and one or more physician at a diagnostic reading site (i.e. medical diagnostic facility) connected to a network in order to review data (column 26, lines 45-56). In addition, DiRienzo teaches the use of digital communication links such as Ethernet (see: column 19, lines 35-42).

Response to Arguments

Applicant's arguments filed 8/7/06 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 8/7/06.

In the remarks the Applicant argues in substance that (1) the Examiner fails to establish a *prima facie* case of obviousness and one cannot use hindsight reconstruction to pick and choose isolated disclosures in the prior art to deprecate the claimed invention; (2) DiRienzo does not teach an internal network having a plurality of modalities or the data communication control system; (3) DiRienzo specifically teaches away from isolating the single imaging computer outside of an internal network; and (4) DiRienzo teaches images selected from different modalities but does not teach multiple modalities coupled to the internal network or the data communication control system as recited in claims 1, 4, 17, 32, 46 and 55.

In response to Applicant's argument, (1) the Examiner fails to establish a *prima facie* case of obviousness and one cannot use hindsight reconstruction to pick and choose isolated

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disclosures in the prior art to deprecate the claimed invention. The Examiner respectfully submits that obviousness is determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. See *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); *In re Hedges*, 783 F.2d 1038, 1039, 228 USPQ 685,686 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785,788 (Fed. Cir. 1984); and *In re Rinehart*, 531 F.2d 1048, 1052, 189 USPQ 143,147 (CCPA 1976). Using this standard, the Examiner respectfully submits that he has at least satisfied the burden of presenting a *prima facie* case of obviousness, since he has presented evidence of corresponding claim elements in the prior art and has expressly articulated the combinations and the motivations for combinations that fairly suggest Applicant's claimed invention (see: paper dated 5/2/06).

In addition, the Examiner recognizes obviousness is not determined by what the references expressly state but by what they would reasonably suggest to one of ordinary skill in the art, as supported by decisions in *In re DeLisle* 406 Fed 1326, 160 USPQ 806; *In re Kell, Terry and Davies* 208 USPQ 871; and *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ 2d 1596, 1598 (Fed. Cir. 1988) (citing *In re Lalu*, 747 F.2d 703, 705, 223 USPQ 1257, 1258 (Fed. Cir. 1988)). Further, it was determined in *In re Lamberti et al*, 192 USPQ 278 (CCPA) that:

- (i) obviousness does not require absolute predictability;
- (ii) non-preferred embodiments of prior art must also be considered; and
- (iii) the question is not express teaching of references, but what they would suggest.

Additionally, the Examiner recognizes that references cannot be arbitrarily altered or modified and that there must be some reason why one skilled in the art would be motivated to make the proposed modifications. However, although the Examiner agrees that the motivation or suggestion to make modifications must be articulated, it is respectfully contended that there is

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no requirement that the motivation to make modifications must be expressly articulated within the references themselves. References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures, *In re Bozek*, 163 USPQ 545 (CCPA 1969).

As such, it is respectfully submitted that an explanation based on logic and sound scientific reasoning of one ordinarily skilled in the art at the time of the invention that support a holding of obviousness has been adequately provided by the motivations and reasons indicated by the Examiner in the prior Office Action (paper number 8), *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter., 4/22/93).

In addition, the Examiner respectfully submits that it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the Applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In addition, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In addition, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

In response to Applicant's argument, (2) DiRienzo does not teach an internal network having a plurality of modalities or the data communication control system; (3) DiRienzo specifically teaches away from isolating the single imaging computer outside of an internal network; and (4) DiRienzo teaches images selected from different modalities but does not teach multiple modalities coupled to the internal network or the data communication control system as recited in claims 1, 4, 17, 32, 46 and 55. The Examiner respectfully submits that DiRienzo teaches that different clients such as the CHC (200, Fig. 3) are connected to the diagnostic physician's office (400, Fig. 3) and the gatekeeper's office (500, Fig. 2) via different types of networks (see: column 19, lines 25-49). In addition, DiRienzo teaches that many diagnostic instrumentalities produce "diagnostic medical images" (see: column 2, lines 10-16). This suggests that the different clients at the diagnostic physician's office and the gatekeeper's office using the Intranet include a plurality of computers or medical diagnostic imaging modalities (see: column 5, lines 13-25) configured to produce medical diagnostic images. Moreover, DiRienzo is also relied on for teaching that the CHC (200, Fig. 3) may use the Intranet to transmits data over a network and if Applicant's were correct in his assertion that DiRienzo teach away from isolating a single imaging computer outside of an internal network which Examiner does not admit, it has been held that prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). With regards to the data communication control system, DiRienzo teaches the transmission of data between the medical diagnostic facility and the CHC (i.e. the remote provider) via a network requires the use of a network/communication interface (e.g. the recited

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data communication control system), and thus obviates the step of providing a data communications control system coupled to the internal network.

In addition, since the Applicant has not traversed the Examiner Official Notice taken in the previous Office Action (dated 5/2/06), the well known in the art statement is taken to be admitted prior art (MPEP 2144.03 [R-1] section C).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

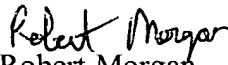
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

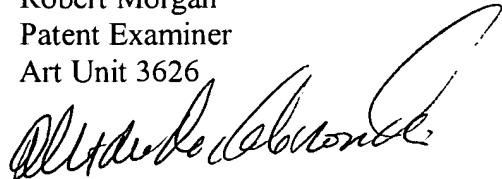
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Morgan whose telephone number is (571) 272-6773. The examiner can normally be reached on 8:30 a.m. - 5:00 p.m. Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Robert Morgan
Patent Examiner
Art Unit 3626



**ALEXANDER KALINOWSKI
SUPERVISORY PATENT EXAMINER**